

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division

LCM CORPORATION, a Virginia)	
corporation,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 7:16-cv-134
)	
FEDERAL-MOGUL CORPORATION, a)	
Delaware corporation licensed to do)	
Business in Virginia,)	
)	
Defendant.)	
)	

MEMORANDUM IN SUPPORT OF LCM'S
MOTION FOR VOLUNTARY DISMISSAL

Introduction

On December 31, 2010, an explosion at the Federal-Mogul factory in Blacksburg injured three LCM employees. Federal-Mogul implies the explosion occurred as a result of the employees' negligence. Nevertheless, Federal-Mogul settled the employees' claims in a jurisdiction in which contributory negligence is a complete bar to an injured party's lawsuit. Federal-Mogul also required the amount of the settlement to be kept confidential.

On December 29, 2015, LCM filed a complaint in Craig County Circuit Court against Federal-Mogul for tortious interference. LCM now seeks a voluntary dismissal of its complaint without prejudice or terms.

Statement of Facts

LCM filed its complaint in the Craig County Circuit Court two days before the statute of limitations ran. LCM did not request service of process. A service alerted Federal- Mogul to the pending case. Federal-Mogul removed LCM's complaint to this Court and then shortly thereafter filed a motion to dismiss.

Argument

Federal Rule of Civil Procedure 41(a)(2) permits this Court to dismiss a complaint, on LCM's request, without prejudice. A Court will usually permit voluntary dismissal so long as it would not inflict undue hardship on the defendant. *Taylor v. Virginia, DOT*, 170 F. R. D. 10 (E. D. Va. 1996).

A dismissal of LCM's complaint would not place an undue burden on Federal-Mogul. LCM's complaint was pending in the Craig County Circuit Court without a request for service. LCM had taken no action to prosecute its complaint. Under these circumstances, a voluntary dismissal without prejudice would not cause Federal-Mogul any undue harm.

Accordingly, LCM requests dismissal of its complaint without prejudice or terms.

LCM CORPORATION

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By: /s/ William B. Hopkins, Jr., Esq.
Attorney for Plaintiff

CERTIFICATE OF MAILING

I, William B. Hopkins, Jr., hereby certify that on April 13, 2016, I electronically filed the foregoing with the Clerk of the above Court using the CM/ECF system, which will provide notice to the following counsel of record:

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/s/ William B. Hopkins, Jr.